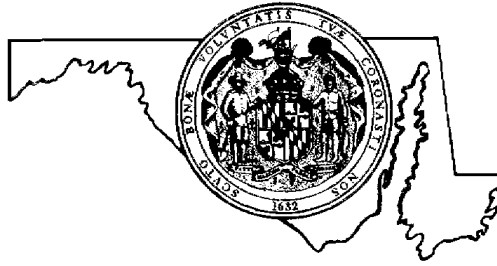


STATE OF MARYLAND

Stephen J. Salamon
CHAIRMAN



Barbara G. McLean
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MARYLAND HEALTH CARE COMMISSION

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60TH MEETING

OF THE

MARYLAND HEALTH CARE COMMISSION

Tuesday, October 19, 2004

Minutes

Chairman Salamon called the meeting to order at 1:07 p.m.

Commissioners present: Crofoot, Ginsburg, Lucht, Moffit, Nicolay, Pollak, Risher, Row, and Toulson

Chairman Salamon thanked former Chairman Donald Wilson, Vice Chairman George Malouf, and Walter Chase for their years of service to the Commission. He welcomed Commissioner Andrew N. Pollak, M.D. to the Commission. Chairman Salamon also mentioned that the new Vice Chair, Dr. Gail Wilensky, was not able to attend the meeting but will be attending the November meeting of the Commission. The Chairman thanked Jerry Petrik and Lynn Garrison for their service to the Commission. Both Messrs. Petrik and Garrison are retiring after years of service to the Commission and/or its predecessors.

ITEM 1.

Approval of Minutes

Commissioner Ernest Crofoot made a motion to approve the Minutes of the September meeting of the Commission, which was seconded by Commissioner Clifton Toulson, Jr., and unanimously approved.

ITEM 2.

Update on Commission Activities

- Data Systems and Analysis
- Health Resources
- Performance and Benefits

Several of the Commissioners asked for further information regarding Health Savings Accounts, mandated benefits, the Uninsured Study, and Patient Safety. Enrique Martinez-Vidal, Deputy Director of Performance and Benefits, provided further information on the status of these projects. Copies of the *Update of Activities* were available on the documents table and on the Commission's website at: <http://www.mhcc.state.md.us/mhccinfo/cmsnmtgs/updates/>.

ITEM 3.

PROPOSED ACTION: COMAR 10.24.12 — State Health Plan for Facilities and Services: Acute Hospital Inpatient Obstetric Services

Chairman Salamon announced that Pat Cameron, Chief, Acute and Ambulatory Care Services, would present proposed changes to the Acute Inpatient Obstetric Services regulations. The proposed changes were released by the Commission at its September meeting for informal public comment.

Ms. Cameron said that the Commissioners had been provided with a Summary of Public Comments and Staff Recommendation on Proposed Changes to *COMAR 10.24.12 State Health Plan: Acute Hospital Inpatient Obstetric Services*. This document summarizes the public comments, and presents staff's analysis of those comments and staff's recommendations for changes to the State Health Plan as a result of those comments. Following Commission consideration of this document at the October 19, 2004 Commission meeting, proposed changes will be released as proposed permanent regulations. Comments were submitted by:

- Ronald L. Gutberlet, M.D., Chairman, Department of Pediatrics at Mercy Medical Center
- Edmond F. Notebaert, President & Chief Executive Officer of University of Maryland Medical System
- Michael C. Rogers, Executive Vice President, Corporate Services, MedStar Health
- James R. Walker, President & CEO, North Arundel Hospital

Staff recommended no change to the Plan's policy regarding the applicability of the Plan to a member of a merged asset system. Staff also recommended that the language added to the review standard, suggested in the September 14, 2004 draft, addressing the impact of a proposed new obstetric service on other providers, remain as originally proposed. Finally, staff recommended that Policy 3.1 be changed, as recommended in the informal comments, to reference a broader scope of research regarding ways to improve pregnancy outcomes. Commissioner Constance Row made a motion that the Commission accept the staff recommendation, which was seconded by Commissioner Crofoot. Commissioner Row asked that the Commissioners endorse the procedure in place for staff dealing with exemptions to the regulations. This procedure was not included in the regulations. She offered an amendment and made a motion to add it to the

proposed regulation. This motion was seconded by Commissioner Larry Ginsburg. Following discussion, Commissioner Toulson made a motion to accept the staff recommendation as amended by Commissioner Row, which was seconded by Commissioner Robert Nicolay, and unanimously approved.

PROPOSED ACTION: COMAR 10.24.12 — State Health Plan for Facilities and Services: Acute Hospital Inpatient Obstetric Services is hereby APPROVED.

ITEM 4.

CERTIFICATE OF NEED:

Hearing: Motion for Commission Review of Denial of Request for Evidentiary Hearing in the Metropolitan Washington Open Heart Surgery Review (Docket Numbers 04-15-2133, 04-15-2134, and 04-16-2135)

Chairman Salamon said that the next agenda item would be a hearing before the full Commission on a Motion filed by Washington Adventist Hospital (WAH) seeking to reverse a ruling by Commissioner Larry Ginsburg, the Reviewer in the Metropolitan Washington Open Heart Surgery Review, denying a request for an evidentiary hearing. In this review, the Commission is considering proposals to establish one open heart surgery program in the Metropolitan Washington area (Montgomery County, Prince George's County, Calvert County, Charles County, and St. Mary's County). Three hospitals have applied: Holy Cross Hospital (Montgomery County); Southern Maryland Hospital Center (Prince George's County); and Suburban Hospital (Montgomery County). Two hospitals have requested and received status as interested parties: Washington Adventist Hospital and Prince George's Hospital Center (Dimensions Healthcare System).

On September 21, 2004, Commissioner Ginsburg issued a ruling stating that he had considered the filings of the parties regarding the request for an evidentiary hearing and decided that an evidentiary hearing was not necessary for him to render a decision. In his ruling not to hold an evidentiary hearing in the current review, Commissioner Ginsburg stated that he desired to hear oral argument on the applications. The oral argument has been scheduled for October 28, 2004 in the Commission's offices and will provide each applicant and interested party one hour, for a total of five hours, to present argument before the Reviewer.

The Commission's regulations at COMAR 10.24.01.10D(6)(c) provide that, when a Reviewer denies a request for an evidentiary hearing concerning a Certificate of Need application, an interested party may obtain full Commission review of that ruling at its next meeting. On October 5, 2004, Washington Adventist Hospital filed a motion seeking to reverse the ruling by Commissioner Ginsburg denying the request for an evidentiary hearing. Replies to the WAH motion were received from Dimensions Healthcare System, Southern Maryland Hospital Center, and Suburban Hospital on October 12, 2004. Southern Maryland Hospital Center concurred with and joined in the motion filed by WAH. Dimensions Healthcare System and Suburban Hospital opposed the WAH motion. Holy Cross Hospital took no position on the motion.

The Commission heard oral argument on the motion from Howard Sollins, counsel for interested party Washington Adventist Hospital; Richard McAlee, counsel for applicant Southern Maryland Hospital; Jack Tranter, counsel for applicant Suburban Hospital; and Stephen Sfekas, counsel for interested party Dimensions HealthCare System. Following oral argument, Commissioner Ginsburg, the Reviewer in this matter, said that having reviewed the record and heard the

arguments of counsel, he continued to believe that an evidentiary hearing would not be necessary. Commissioner Crofoot made a motion to uphold the Reviewer's decision, which was seconded by Commissioner Row. Following discussion among the Commissioners with counsel to the parties, Commissioner Crofoot reiterated his motion, seconded again by Commissioner Row, and the motion was unanimously approved.

ACTION: CERTIFICATE OF NEED: The Reviewer's Denial of Request for Evidentiary Hearing in the Metropolitan Washington Open Heart Surgery Review (Docket Numbers 04-15-2133, 04-15-2134, and 04-16-2135) is hereby AFFIRMED.

ITEM 5.

CERTIFICATION OF ELECTRONIC HEALTH NETWORK: GHN-Online

Chairman Salamon asked Dr. David Sharp, Chief of EDI Programs & Payer Information Systems, to present this agenda item. Dr. Sharp said that staff had completed its review of MHCC certification documentation from GHN-Online and recommended that the Commission certify it as an Electronic Health Network (EHN). Commissioner Ginsburg made a motion that the Commission accept the staff recommendation, which was seconded by Commissioner Andrew Pollak, and unanimously approved.

ACTION: GHN-Online is hereby APPROVED as an ELECTRONIC HEALTH NETWORK.

ITEM 6.

PRESENTATION: Briefing on the Limited Benefit Plan

Chairman Salamon announced that Mr. Martinez-Vidal would present the briefing. Mr. Martinez-Vidal said that during the 2004 legislative session, the General Assembly passed SB 570 that requires the MHCC to develop a Limited Benefit Plan (LBP) that will be available to certain small employers beginning July 1, 2005. In specifying the LBP, the MHCC must ensure that the actuarial value of the plan does not exceed seventy percent of the actuarial value of the Comprehensive Standard Health Benefit Plan as of January 1, 2004. SB 570 requires that the LBP be offered to a small employer who: (1) has not provided the Standard Plan during the twelve-month period preceding the date of application or, if the small employer has existed for less than twelve months, from the date the small employer commenced its business; and (2) has employees in the employer's group with an average annual wage that does not exceed seventy-five percent of the average annual wage in the state. He presented a potential model for the plan, as well as a more detailed staff draft of the plan design. Mr. Martinez-Vidal also said that Staff was in the process of consulting with the benefit design and actuarial divisions of the prominent carriers as well as with the Commission's actuarial consultant. After his presentation, a discussion among the Commissioners and Staff ensued. The Commissioners stated that they would prefer a LBP that had a more innovative design than the plan that was presented. The plan, as presented, would be similar to the Standard Plan with certain limitations on the number of visits and on the amount of carrier financial responsibility in certain benefit categories. Chairman Salamon commended staff and the Commission's actuarial consultant for their efforts and noted that there would be ongoing changes to the design of the LBP. Commissioner Row made a motion to Release the Staff Draft for Public Comment, which was seconded by Commissioner Ginsburg, and unanimously approved.

ACTION: The Staff Draft of the Limited Benefit Plan Design is hereby RELEASED FOR PUBLIC COMMENT.

ITEM 7.

Hearing and Meeting Schedule

Chairman Salamon announced that the scheduled meeting for November had been changed to Tuesday, November 23, 2004 at the Commission's offices at 4160 Patterson Avenue, Room 100, in Baltimore, Maryland at 12:30 p.m. He also announced that a public hearing on the Limited Benefit Plan would be held at the Commission's offices on November 4, 2004 at 1:00 p.m.

ITEM 8.

Adjournment

There being no further business, the meeting was adjourned at 3:22 p.m. upon motion of Commissioner Nicolay, which was seconded by Commissioner Jeffrey Lucht, and unanimously approved by the Commissioners.